Switzer Super Report

Issue 193, 11 June 2013

How to play stocks

I'm on the island of Patmos enjoying the blue sky and blue sea, but my *Switzer Super Report* subscribers are much more important! Interestingly, over here they're not talking about a Greek exit (Grexit) from the eurozone, but a Grecovery! But it's only less bad news for a country with 27% out of work, but the finance minister can see positive economic growth in 2014, which will be good for stocks worldwide if its true!

So, with the Aussie stock market down in recent times, how should you play stocks now? I look at this issue in today's note.

Sincerely,

Peter Switzer

Inside this Issue

Is Fairfax Media's fate akin to that of the Ford Falcon?
by Greg Fraser
06

02 **How do you play stocks now?**
by Peter Switzer
A buying opportunity?

04 **Product Road Test – Balmain Discrete Mortgage Income Trusts**
by Paul Rickard
How it works

06 **Is Fairfax Media's fate akin to that of the Ford Falcon?**
by Greg Fraser
Print to digital transformation

08 **Weekly Broker Wrap: BHP, Cochlear upgraded, Leighton downgraded**
by Rudi Filapek-Vandyck
This week's changes

12 **Back to the future – the three year in advance rule**
by Tony Negline
Be prepared

14 **Auction clearance rate at 8-week low**
by Penny Pryor
Tough times return?

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36-40 Queen Street, Woollahra, 2025
T: 1300 SWITZER (1300 794 8937) F: (02) 9327 4366

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How do you play stocks now?

by Peter Switzer

So what gives with the US stock market, and how do we play it to get our investments in our market right?

In my perfect world the US economic recovery starts producing over 200,000 jobs a month and that means the Federal Reserve starts to taper its $85 billion quantitative easing (QE) program.

Good economic news means QE is not needed so much anymore which would lead to a sell-off of stocks. Eventually though, the power of positive economic news offsets the negativity of less monetary stimulation that has been partly pushing stocks in the USA higher and higher.

However, last Friday, the Yanks only created 175,000 jobs in May, though only 170,000 were tipped by the expert economists surveyed by Reuters.

Market reaction

So there was good news but not great news, but how did Wall Street react on Friday night? Try this — the Dow had the second best day of the year! The index was up over 207 points to 15,248.12 — only 161 points off its all-time closing high of 15409.39! That is only a measly 1% and looks ridiculous compared to us.

We hit our closing high on 14 May at 5,221 and we were at 4,737.7 before the Queen's Birthday weekend which means we have lost about 483 points or 9.25%. This screams out loud — this is the buying opportunity Switzer has been talking about. Helping our cause to see our stocks take off is now the softer Aussie dollar, which at the time of writing was 94.53 US cents. This will help exporters and all of those listed companies that have been struggling under the weight of the too high currency.

If I could be confident that the Yanks would not engage in stock dumping I would be telling you to buy now but there is that overdue sell-off which makes me think that if Wall Street falls we will play follow the leader.

Outlook for stocks

So how will I play it from here?

Some of the US analysts I respect think the improving economy will be good for cyclical stocks going forward. Others say the market could track sideways which would not hurt my view that we are in a buying opportunity at home.

Meanwhile, Sam Stovall of S&P Capital IQ has raised his S&P 500 index target by 10% for the year and supports my view that the easing up of QE will hurt stock prices but it will be seen as a buying opportunity in the States and a rebound based on better economic recovery news will drive it all.

I am a little worried about China for the first time and Japan has been a bit of a concern. However its market shot up 5% on Monday on a better than expected GDP number.

By the way there are some who argue that QE is keeping money on the sidelines because it looks like an emergency measure and when it tapers and then ends, the money will flow into stocks!

For the long-term

I think we are in a secular upward-trending market and so worrying about the month-to-month moves of the market could make you feel stupid in one year's time.

I maintain trying to time a market is not good for your nerves, your sleep or your hairline, so look at the companies you like after this 9% sell-off and start thinking about loading up for what the prices will be in 2014, not 2013.

That's what I am going to do and if they fall some more — I will buy some more and that's because I only buy companies I want to hold for the long-term because they pay nice dividends and they are great businesses.

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Product Road Test – Balmain Discrete Mortgage Income Trusts

by Paul Rickard

If you have been involved in commercial property, you are bound to have heard of the Balmain Group. If you haven't, then Balmain is Australia's largest non-bank commercial property loan organisation, having originated more than $30 billion of commercial mortgage loans since its foundation in 1979.

In a "first" for the Australian investment market, Balmain, through its Balmain Discrete Mortgage Trusts, is providing investors the opportunity to invest in discrete, individual commercial mortgages from as little as $10,000. You select the specific commercial loan(s) you wish to invest in.

Balmain Discrete Mortgage Income Trusts

The trusts allow investors to access individual, standalone, first mortgage secured commercial property loans selected by Balmain. The loans typically run from a few months out to 3 years, and are secured by office, retail, industrial or commercial property.

A Balmain entity acts as the Responsible Entity for the Income Trusts. Structurally, a discrete sub-trust is established for each individual loan, with a cash management account sitting over the top. Investors deposit funds into the cash management account and are issued 'cash units', and then consider whether to invest in one or more of the discrete loan sub-trusts. They are under no obligation to do so – however if they elect to invest in one of the property loans, they are issued 'loan units' for the applicable sub-trust.

The minimum initial investment is $50,000 in cash units – which may then be invested in loan units from amounts starting from $10,000 per individual loan. The monies remaining in the cash units are placed on deposit with the National Australia Bank, currently earning interest at 2.75% pa. Investors can redeem their cash units on 7 days notice.

The Loans

Balmain Funds Management sources, originates, credit approves and manages the loans. Loans are:

- secured by way of registered first mortgage;
- minimum of $250,000;
- target loan term of 1 to 5 years (typically under 3 yrs);
- target return of 6% to 12% pa;
- mix of loan value ratios (LVRs), property sectors and geographies (most likely eastern seaboard).

The table below show the current loans available.

Location	Type	Term	Target Return	LVR	Loan Amount
Canberra	Industrial	1 month	7.05%	70%	$315,000
Brisbane	Office	2 months	6.30%	60%	$300,000
East Brisbane	Commercial	2 months	6.30%	23%	$650,000
Sydney	Strata Commercial	9 months	6.05%	52%	$520,000
Banksmeadow, Syd	Indust/Office Strata	10 months	6.05%	61%	$355,000
Sunshine Coast	Comm/Retail	5 months	6.35%	64%	$640,000
Nth Sydney	Commercial Strata	10 months	6.35%	69%	$620,000
Nth Beaches, Syd	Indust/Office Strata	16 months	6.85%	63%	$3,506,000

Balmain's Credit & Investment Committee assesses each loan, using criteria that includes an analysis of asset risk, borrower risk, servicing risk and exit risk. This analysis is made available to potential investors, who are able to access this summary and other detailed information about the loan, property and the borrower in a Supplementary Product Disclosure Statement for each sub-trust.

Management Fees

Balmain charges a management fee of 1.65% pa of the principal amount of each loan (no management fee is charged on the cash units). The management fee comprises 3 components:

- base management fee of 0.80% pa;
- recoverable expenses (expected to be 0.05%pa); and
- deferred management fee of 0.80% pa.

Rather innovatively, although the deferred management fee accrues during the term of the loan, it is only paid when the loan has been repaid in full and investors have achieved the target return. If the target return is not met, then deferred management fee is reduced on a pro-rata basis.

There is also an additional performance fee that is payable on any “surplus recovery” (effectively the return in excess of the target return) under which Balmain receives 50% of any surplus. Arguably, the performance fee and deferred management fee help to ensure that there is an alignment of interests between the investment manager and investors.

The Balmain Group also earns fees from the origination and establishment of the loan, and from the servicing of the loan. These fees are paid by the borrower.

Overall

This is a very innovative product that massively improves the accessibility to an otherwise very difficult asset class to invest in. The website that Balmain has put together (www.balmainprivate.com.au) is slick, and SMSFs can readily monitor their investments as well as consider new opportunities.

Commercial property loans, however, are traditionally higher risk than residential property loans. Also, because you select the individual loan (which is also one of the attractions), investment requires a higher level of due diligence than may be required if investing in a pool of mortgages. The minimum investment amount has been kept high at $50,000 to discourage “tyre kickers” and help ensure that investors approach this opportunity with serious intent. For the discerning investor.

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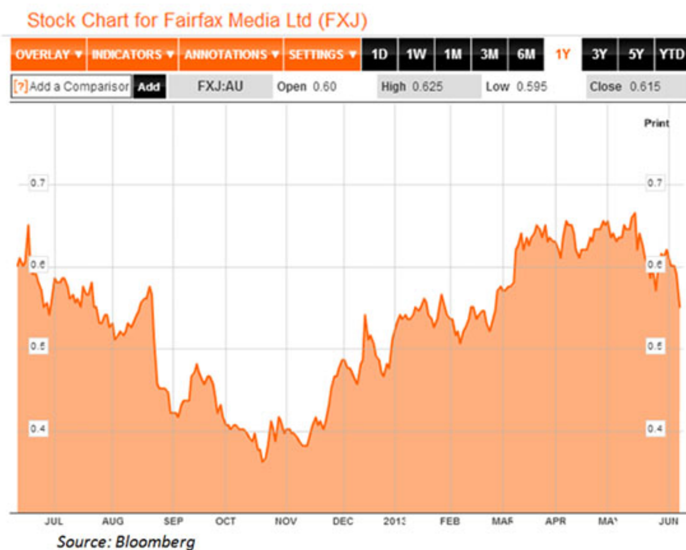
Is Fairfax Media's fate akin to that of the Ford Falcon?

by Greg Fraser

No matter how hard the good people at Fairfax work to re-model the business into a digital dynamo, the suffocating hangover of the print era continues to drag it down.

Last week, the company announced yet another earnings guidance downgrade for the 2013 financial year as revenue continues to slide at a 10% clip and operating earnings cop a pasting.



Source: Bloomberg

Fairfax said its revenue so far in the second half of this financial year is 9-10% below last year (similar to its February trading update) causing operating earnings (EBITDA) for the second half to be in the range of $129-135m.

First half EBITDA of $230.3 million included a $44.8 million contribution from TradeMe, which was sold in December 2012 for net proceeds of $606 million.

Hard road

The transition road from print to digital has been a long hard slog for Fairfax Media. Worse, it has been a painfully bad financial experience for investors.

Ford's iconic family wagon has struggled against more nimble imported models, and the traditional newspaper has become like the big family wagon – a good people-mover but cumbersome and costly compared to today's competition.

Fairfax Media held yet another strategy update day for investors outlining how it will take even more cost out of its business, how it is further realigning its products and brands and how it will entice more audience and advertisers to its evolving digital properties.

But amidst the admirable analysis of audience structure, preferences and changing use of technology, the inescapable truth is that Fairfax's revenue and earnings are slipping away faster than it can add new ways of charging equivalent chunks of new revenue.

Despite the ongoing gouge into the cost line, Fairfax earnings still look like they are going backwards rather than forwards. The cost diet doesn't seem to have caught up to the required playing weight yet.

On top of the expected $251 million of annual cost savings detailed so far, Fairfax has found another $60 million of nip and tuck taking annualised savings towards $310 million. That's a big number but a necessary one. We doubt it will be the last.

New ideas

Fairfax is now re-thinking the range of products it produces and this is a sensible idea, if not an overdue one. As part of its next stage of becoming more lean and agile, the company will review all of its 431 publications, 337 websites, 7 radio stations and 100 apps. It's more likely that the publications list will be the target for trimming, such as the closure of 7 community newspapers in Melbourne announced, but

will not include the major mastheads which Fairfax claims are profitable.

Also on the agenda is the company's new pricing and bundling of its digital subscriptions as well as the format for which each paywall is to be implemented. It appears as though some print editions are now acting as giveaways to entice subscriptions to the digital bundles. For example, a full suite of digital access (PC, mobile and tablet) will cost $25 per month but subscribers can add a weekend newspaper for no extra charge.

At this early stage, Fairfax's paywall strategy is not radically different from either News Limited's local version or other paywalls established overseas.

But it does seem to mark the beginning of the real paywall era in Australia and perhaps the beginning of the end of the free content era for premium quality news. The barn door is finally shutting.

Content sharing is another avenue for extracting costs with 39% of content being shared across mastheads (SMH and The Age) as at March this year. That will probably increase further.

For the first time, Fairfax revealed that its Domain brand generated $140m of revenue in FY12 and $44.6m EBITDA across both digital and print. The company sees real estate as a profitable core business and we do not disagree. But the same problem exists here with print revenue and earnings declining faster than digital revenue and earnings are growing.

In addition to the Domain revenue, Fairfax hauls in another $194m of revenue through other publications and joint ventures bringing its total real estate exposure to around $335m.

The sale of the remaining TradeMe stake has enabled net debt to fall to almost negligible levels ($113m as at 31 December 2012) giving the balance sheet some breathing space – but keep an eye on the possibility of even more goodwill writedowns at the end of year result due in August. Intangible assets still make up just over half of group assets.

Is Fairfax a buy?

The share price is implying a multiple of approximately 5x operating earnings based on the guidance for FY13 EBITDA which at first glance appears quite harsh. It probably doesn't factor in the additional cost savings being in place but perhaps anticipates no near term lift in advertising revenue.

The contrast with the 'new News' Corporation is irresistible. Both companies have a strong presence in the Australian media landscape but that is where the similarities end. News Corp will begin its new separated life at the end of June with not only a global print business across newspapers, magazines, books, and coupons but will also have the cash generating power of its subscription television businesses and the financial information services of Dow Jones, plus the number 1 Australian online real estate business, REA Group.

There is no question that Fairfax is trying as hard as it can to improve its profitability based on its good brands and content, but the structural and cyclical headwinds are fierce indeed.

Fairfax Media's incumbent brands will outlast the Ford Falcon, but the company is finding it hard to make money from its iconic brands.

We would avoid investing in Fairfax Media.

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Weekly Broker Wrap: BHP, Cochlear upgraded, Leighton downgraded

by Rudi Filapek-Vandyck

Weekly broker recommendation changes turned positive after six straight weeks of a negative weekly balance followed by the week before last's neutral outcome. Last week upgrades outpaced downgrades fifteen to nine, with weaker AUD assumptions impacting heavily on the proceedings.

Cochlear (COH) featured prominently last week, picking up three separate upgrades to Neutral and one downgrade. Billabong also garnered an above average amount of attention, slapped with two downgrades for Sell. But it was Newcrest that had the toughest week, downgraded to Sell by three separate brokers.

Changes to stock broker ratings in the past week

Upgrades				
Code	**Company**	**Old Rating**	**New Rating**	**Broker**
BHP	BHP Billiton	Sell	Buy	BA-Merrill Lynch
BBG	Billabong	Sell	Neutral	UBS
BWP	BWP Trust	Neutral	Neutral	Citi
CQR	Charter Hall Retail REIT	Sell	Neutral	Citi
CND	Clarius Group	Neutral	Buy	JP Morgan
COH	Cochlear	Sell	Neutral	Macquarie
COH	Cochlear	Sell	Neutral	JP Morgan
COH	Cochlear	Sell	Neutral	Deutsche Bank
EGP	Echo Entertainment	Sell	Buy	Credit Suisse
FAN	Fantastic Holdings	Sell	Buy	Credit Suisse
IOF	Investa Office	Neutral	Buy	Citi
JBH	JB HI-FI	Neutral	Buy	UBS
RHC	Ramsay Health Care	Sell	Neutral	CIMB Securities
TPI	Transpacific Industries Group	Neutral	Buy	JP Morgan
WFA	Westfield	Neutral	Buy	Citi

Upgrades

BHP Billiton (BHP) upgraded to Buy from Underperform by BA-Merrill Lynch.

Forecasts were unchanged, but BA-Merrill Lynch lifted its price target by $6.00 and upgraded its recommendation. First, the broker thinks the 4% yield will help maintain a floor under the share price. Second, the broker also likes what it is hearing from the new CEO. With the new project moratorium drawing to a close, Merrills would like to see the Jansen Potash project greenlighted. It would cost between US$10-$15bn, but the upside would be worth it.

Billabong (BBG) upgraded to Neutral from Sell by UBS, downgraded to Underweight from Neutral by JP Morgan and downgraded to Sell from Hold by Deutsche Bank.

The Sycamore and Altamont consortiums have dropped their bids for Billabong. UBS assumes current balance sheet risk, little in the way of asset backing and a less than positive earnings outlook all contributed. The job for management now is to look for ways to cover the $400m that is due next July. It'll either be divestments or a dilutive capital raising along with new debt and neither paints a pretty picture. The broker has cut its FY13-14 EPS forecasts by 34% and 42% on the above and lowered earnings guidance from management. The funding will be secured, says UBS, who had confidence enough to lift its call.

Deutsche Bank said another earnings downgrade and the cessation of takeover discussions means the company's tight balance sheet has worsened. The broker believes there must be some value in the brands because of the continued interest in Billabong and the company's dire need for capital may allow future suitors to enjoy some benefits without assuming the equity risk. The worst case is that no deal is agreed and the best case is that the consortia

can cherry pick the best brands for a low price and offer debt financing with a coupon sufficient to compensate for their risk.

JP Morgan noted the focus for Billabong is debt refinancing and asset sales. The downgrade was based on a lack of earnings certainty and refinancing risk. The broker will revisit the stock once there is increased earnings and refinancing certainty.

Cochlear (COH) upgraded to Neutral from Underperform by Macquarie, to Hold from Sell by Deutsche Bank, to Neutral from Underweight by JP Morgan and downgraded to Underperform from Neutral by BA-Merrill Lynch.

Macquarie had feared Cochlear would not meet top-line expectations and this fear was borne out in the company's downgrade to FY13 guidance. The broker also fears the trend could persist given the improvement in competitor products. Now the downgrade to earnings forecasts has happened the broker said consensus expectations are likely to end up at a more realistic level and, together with the launch of N6 and fading currency headwinds, the catalysts are more balanced.

Deutsche Bank noted Cochlear has historically enjoyed a sharp uplift in sales after a product launch and the broker expects this to occur again in FY14. Deutsche Bank is wary that the uplift will be more subdued, as market growth has slowed and competitors have launched products as well. Ultimately, the broker thinks the earnings benefit will be offset by reduced currency hedge gains as well. With the stock trading at a lower level now, room enough was seen for an upgrade.

JP Morgan upgraded its recommendation on the negative share price reaction post the company's earnings downgrade.

BA-Merrill Lynchis now assuming that the global cochlear implant growth rate has slowed to around 5% over the past few years and with most of the kids now out of the way, adults have overtaken as the main recipients. Thus while the broker is still upbeat about the upside to come from technology progress and new clinic growth, this is being increasingly offset by near term earnings softness from the above mentioned slowing implant growth rate. FY13-14 EPS forecasts were trimmed by 2% and 9%, this pulled the price target lower, which in turn saw the recommendation downgraded.

Echo Entertainment Group (EGP) upgraded to Outperform from Underperform by Credit Suisse.

Credit Suisse said that equity markets are discounting the prospect that Echo entertainment will lose its Sydney exclusivity in 2019. To the broker, the stock is reflecting a 50% reduction in VIP turnover in 2020 and a 20% reduction in private gaming room revenue. Although the broker's valuation is not based on this assumption, it noted were Echo to lose Sydney exclusivity the valuation would fall to around $2.60 a share. Credit Suisse is also not assuming the company will lose its monopoly position in Brisbane. The share price has fallen, hence the rating was upgraded.

Fantastic Holdings (FAN) upgraded to Outperform from Underperform by Credit Suisse.

The price target stayed put at $2.55 and EPS/DPS forecasts were unchanged, but Credit Suisse decided to upgrade its recommendation on unwarranted price weakness over the recently issued guidance and early signs of improvement in housing investment. Combined, these tell CS that we're looking at an emerging counter cyclical opportunity. The broker sees the company getting off to a good start in FY14, with a tailwind from a gradual improvement in housing helping to support bulky goods sales, while CS also expects to see an improvement in consumer confidence and discretionary spending after the Federal election.

JB HiFi (JBH) upgraded to Buy from Neutral by UBS.

Forecasts and the $16.15 price target were maintained, but UBS decided to lift its recommendation, noting recent channel checks showed electronics retailing is not as soft as the apparel business, with sales solid and inventory levels clean. The broker also likes the look of the new JB Home format and noted trading so far has been surprisingly good. The better earnings outlook and recent underperformance in the share price were

enough to spark the upgrade, UBS also liking the 5% yield.

Ramsay Healthcare (RHC) upgraded to Neutral from Underperform by CIMB.

CIMB updated currency forecasts and the broker also views the expansion efforts into Asia as favouring the upside from public-private partnerships.

Downgrades

Carsales.com (CRZ) downgraded to Sell from Neutral by UBS.

The broker said it likes the company and its dominant market position and continued to see plenty of upside. The problem UBS has is that most of the available upside is already in the price, with further market expectations looking increasingly unrealistic. FY13-16 EPS forecasts are pretty much unchanged and the broker lifted its long-term market share assumptions now that News' (NWS) carsguide.com.au has not delivered on all the hype. The problem was that shares had outperformed the market by 56% over the last year and are looking really expensive. Couple that with overly optimistic market assumptions and you've got a downgrade despite UBS liking the fundamentals.

Leighton Holdings (LEI) downgraded to Sell from Neutral by Citi.

The broker noted the company has stopped work at the Senakin and Satui coal mines in Indonesia after a dispute about contract terms. On Citi's numbers, the mines contribute up to 4% of group earnings. While the company and the broker think this will have a limited earnings impact, Citi did point out the growing evidence of the increasing earnings risks facing contract miners in Indonesia. Earnings forecasts were unchanged for the time being, but the price target was cut and the recommendation i downgraded. The lower price target was due to the broker now applying a 15% discount to its valuation to reflect Indonesian earnings risks. Senakin and Satui may only contribute 4% to group earnings, but the overall Indonesian mining contribution is somewhere closer to 15%.

Downgrades

Code	Company	Old Rating	New Rating	Broker
ABP	Abacus Property	Buy	Neutral	Citi
BBG	Billabong	Neutral	Sell	JP Morgan
BBG	Billabong	Neutral	Sell	Deutsche Bank
CRZ	Carsales.com	Neutral	Sell	UBS
COH	Cochlear	Neutral	Sell	BA-Merrill Lynch
LEI	Leighton Holdings	Neutral	Sell	Citi
NCM	Newcrest Mining	Neutral	Sell	Citi
NCM	Newcrest Mining	Neutral	Sell	UBS
NCM	Newcrest Mining	Buy	Sell	Credit Suisse

Newcrest (NCM) downgraded to Sell from Neutral by Citi and UBS and downgraded to Underperform from Outperform by Credit Suisse.

Just like what we've been seeing from the likes of BHP Billiton (BHP) and Rio Tinto (RIO), Citi suspects a major strategic shift to less production, lower costs and more cashflow and higher shareholder returns is underway at Newcrest. Unlike the two majors, who are simply addressing market demand, Newcrest is also dealing with a falling gold price. All in all, Citi liked the plan, noting this is what investors want to see before confidence in the gold sector can build again. A higher gold price wouldn't hurt either. The problem for Citi is that decreased production means lower revenue, which adds up to lower earnings and a lower valuation. Adding this into the mix caused Citi cut its call and slash its price target.

UBS added up the numbers and came to the conclusion that the recent guidance update for 5%-10% production growth in FY14 amounts to an 11% downgrade and is 15% short of consensus. Incorporating the lower production saw FY14 EPS cut by 32%. UBS warned there may be more cuts to come, as its numbers factor in a 1.02 AUD and gold at US$1625/oz.

Credit Suisse said it expects the plunge in the gold price will initially drive downgrades to price assumptions, earnings and valuations. Then there'll be secondary downgrades to production as producers adjust plans so they can be sustainable in the event of an even more punitive gold price environment. At this stage, Credit Suisse said Newcrest's challenge is to ensure net free cash generation at Lihir instead

of growing production. Also the Kapit project is likely to be deferred if current gold prices continue.

The FNArena database tabulates the views of eight major Australian and international stock brokers: BA-Merrill Lynch, CIMB, Citi, Credit Suisse, Deutsche Bank, JP Morgan, Macquarie and UBS.

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Earnings Forecast in cents per share

Order	Company	Previous EF	New EF	Change	Recs
Positive Change Covered by > 2 Brokers					
1	WSA	4.890	5.319	8.77%	7
2	ALS	40.143	42.417	5.66%	3
3	SLR	22.550	23.725	5.21%	4
4	QBE	100.916	102.066	1.14%	8
5	CHC	24.767	24.983	0.87%	6
6	BPT	9.880	9.952	0.73%	6
7	BWP	14.075	14.175	0.71%	4
8	FDC	15.804	15.903	0.63%	7
9	WRT	19.641	19.756	0.59%	7
10	CPA	8.486	8.529	0.51%	7
Negative Change Covered by > 2 Brokers					
1	BSL	3.600	2.963	-17.69%	6
2	ALQ	71.013	58.704	-17.33%	8
3	COH	272.488	239.400	-12.14%	8
4	TPI	4.733	4.367	-7.73%	6
5	NCM	73.263	69.613	-4.98%	8
6	SDM	10.433	10.100	-3.19%	3
7	PRG	28.543	27.971	-2.00%	7
8	FGE	78.267	76.967	-1.66%	3
9	TOL	42.875	42.360	-1.20%	7
10	OSH	11.718	11.614	-0.89%	8

Back to the future – the three year in advance rule

by Tony Negline

A recent Administrative Appeals Tribunal (AAT) case provides a salutary lesson on how retirement planning could go wrong.

In gearing up for access to Centrelink's Age Pension, a taxpayer, Mr Dowling, took just under $294,000 out of his superannuation account and contributed almost all of it to his wife's super account in the 2008/09 financial year. They didn't seek a tax deduction for any part of this contribution.

Mr Dowling had received verbal advice from a Centrelink Financial Information Service Officer as well as a financial planner associated with the super fund he was using at the time before performing any part of these transactions.

Start the clock

The contribution started Mrs Dowling's three year in advance clock. That is, the super laws allow three years of Non-Concessional Contributions to be made in advance.

This special rule only applies when a person contributes more than $150,000 in non-concessional contributions in the first year of a three financial year period. This means that over a three-year period, the maximum that can be contributed before a penalty tax applies is $450,000. Amounts over this threshold are taxed at 46.5%.

As the $294,000 contribution made in the 2009 financial year is more than $150,000, this triggered the first year of a three year bring forward period for Mrs Dowling.

In the 2010/11 financial year, Mrs Dowling decided she wanted to reduce the tax payable on death benefits paid to her non-dependant adult children after reading a newspaper article. To put this into place, she withdrew $240,000 from her super account and not long after contributed $200,000 of it back into her super fund. Importantly, before performing these transactions, she took no advice.

Unfortunately the 2011 financial year was the last year in Mrs Dowling's three year in advance period, which had started in the 2008/09 financial year. Over this three-year period her total contributions were $494,000.

Excess contribution

The Tax Office assessed the $44,000 ($494,000 – $450,000) as an excess contribution and asked for 46.5% tax. Mrs Dowling objected to this and claimed special circumstances. The ATO rejected her application for leniency and Mrs Dowling appealed to the Administrative Appeals Tribunal.

The Dowlings claimed that when they took advice in the 2009 financial year the issue of excess contributions and the three year rule wasn't discussed. Mrs Dowling also said that she hadn't made any monetary gain from entering into these transactions other than the Aged Pension payable for her husband because the money had moved from his name to her name.

The Administrative Appeals Tribunal said that ignorance of the law, financial hardship, incorrect financial advice, retrospective legislative changes, adverse legislative changes and media reports don't warrant special circumstances.

In relation to the first contribution involving transferring the contribution from Mr Dowlings super account, the AAT said that the Dowlings had endeavoured to ensure they did what was legally permissible and had no concept of excess contributions before or after taking advice in the 2009

financial year. In addition the contribution didn't involve new super money – merely a re-arranging of existing money.

The result

The AAT decided the penalty tax of $20,000 (46.5% of $44,000) would be "particularly harsh". It decided that the $294,000 contribution made in 2008/09 shouldn't be counted as a Non-Concessional Contribution for excess contributions tax purposes and as a result the excess tax problem disappeared.

The AAT however said that the $200,000 contribution made in the 2011 financial year should be counted. At a practical level 2010/11 becomes the first year in a three year contribution period for Mrs Dowling because by default it's the first year she's deemed to have made a contribution greater than $150,000.

Tax Office appeal

The case, [Pamela Dowling vs Commissioner of Taxation [2013] AATA 49], is definitely worth a read.

The Dowlings represented themselves before the AAT. They certainly seemed to have been very well prepared and it can't be doubted that they received a fair hearing.

However the Tax Office has appealed this case to the Federal Court. A hearing date has been set for mid-July. Assuming this goes ahead, we can expect to get a judgement later this year.

Important: *This content has been prepared without taking account of the objectives, financial situation or needs of any particular individual. It does not constitute formal advice. Consider the appropriateness of the information in regards to your circumstances.*

Auction clearance rate at 8-week low

by Penny Pryor

The auction clearance rate in Sydney over the weekend went below 70% for the first time in 8 weeks, raising questions about the strength of the property market. Clearance rates were low across the board, with Brisbane below 50% for the second consecutive week.

Table 1: Saturday, 8 June 2013

	Clearance Rate%	Number Listed	Number Reported Auctions	Number Sold	Number W/drawn	Total Value Sold ($million)	Auction Median Houses	Auction Median Units
Sydney	69.7%	245	171	138	27	$94.6	$796,000	$620,000
Melbourne	60.0%	143	82	51	3	$26.7	$555,500	SNR
Adelaide	56.5%	31	21	13	2	$4.3	SNR	SNR
Brisbane	48.3%	45	29	14	0	$4.8	SNR	SNR

Source: APM

The figures come on the back of a strong increase in auction clearance rates over the last few weeks, particularly in Sydney and Melbourne, where rates have been climbing steadily since December.

With the long weekend, the number of properties listed was down materially, with APM reporting just 335 properties listed for auction in the four major capitals, down from a huge 1,312 last week.

In Sydney the most expensive property sold at auction was a four bedroom home in Abbortsford, which sold for $4.15 million. The most affordable was a two bedroom unit in Mount Druitt which went for $250,000.

In Melbourne the figures were closer together, with the most expensive property going under the hammer at $1.13 million and the cheapest selling for $290,000.

Table 2: Saturday, 1 June 2013

	Clearance Rate%	Number Listed	Number Reported Auctions	Number Sold	Number W/drawn	Total Value Sold ($million)	Auction Median Houses	Auction Median Units
Sydney	76.6%	395	338	282	30	$255.9	$953,500	$630,000
Melbourne	71.6%	774	677	496	16	$300.8	$681,000	$496,000
Adelaide	64.7%	56	45	33	6	$18.8	$565,000	SNR
Brisbane	47.4%	87	71	36	5	$17.1	$580,000	SNR

Source: APM

Notwithstanding the dip in the auction clearance rates, last weekend still compared pretty favourably to the corresponding weekend last year (Table 3). In 2012, none of the major cities managed to sell more than 50% of properties at auction, with Adelaide achieving a clearance rate of just 13.3%!

Table 3: Saturday, 9 June 2012

	Clearance Rate%	Number Listed	Number Reported Auctions	Number Sold	Number W/drawn	Total Value Sold ($million)	Auction Median Houses	Auction Median Units
Sydney	49.2%	191	154	88	25	$61.7	$810,000	$657,500
Melbourne	47.0%	126	115	55	2	$26.5	$540,000	$425,500
Adelaide	13.3%	18	14	2	1	$1.2	SNR	SNR
Brisbane	33.3%	43	35	14	7	$5.1	SNR	SNR

Source: APM

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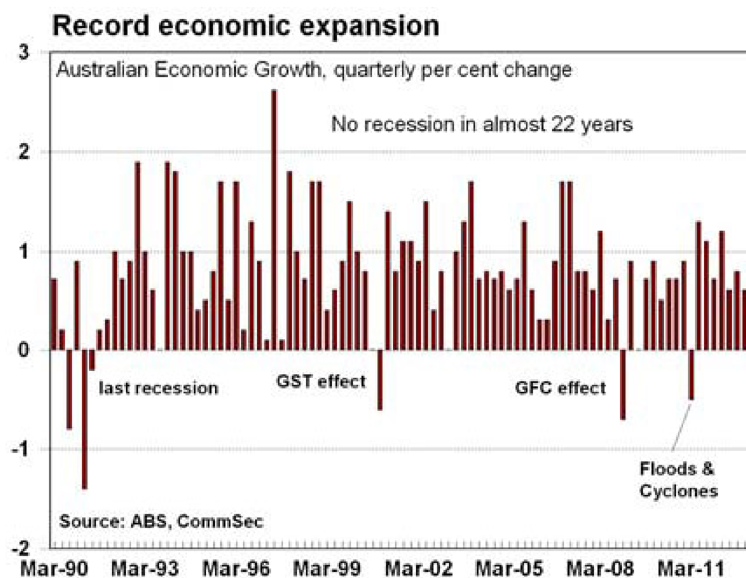
The week ahead

Australia
June 11 Housing finance (April)
June 11 NAB business survey (May)
June 12 Lending finance (April)
June 12 Credit & debit card lending (April)
June 12 Consumer confidence (June)
June 13 Employment/unemployment (May)

Overseas
June 8 China Trade (May)
June 9 China data (May)
June 10-15 China Lending (May)
June 12 US Federal Budget (May)
June 13 US Retail sales (May)
June 14 US Producer prices (May)
June 14 US Industrial production (May)

Chart of the week

The Australian economy expanded 0.6% in the March quarter following a rise of 0.6% in the December quarter. Annual economic growth was 2.5%, which was below long-term average of 3-3.25%.



Net exports contributed the most to growth with one percentage point, while the biggest drag on growth was public investment, down 0.9 percentage points. Only six out of 19 industry sectors contracted. Financial and insurance services contributed the most to growth with 0.2 percentage points. Among the industries contributing 0.1 percentage points were mining, retail trade, agriculture, transport, postal and warehouse, administrative and support services, and public administration.